

DD/A Registry

83-5040

ROUTING AND RECORD SHEET

SUBJECT: (Optional)

Records Validation Officers

FROM:

EXTENSION

NO.

OIS 83-766

Director of Information Services
1206 Ames Building

DATE

30 NOV 1983

TO: (Officer designation, room number, and building)

DATE

RECEIVED

FORWARDED

OFFICER'S INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

1. EO/DDA

1 DEC 1983

2 D

R

2.

DD/A REGISTRY

3. ADDA

12/5/83

J

LE: ~~70-1~~

4.

5. DDA

8 DEC 1983

2

6.

7.

D/OIS

8.

9.

I must agree with your views, however, I doubt that we could change mind on this. This was the result of the Wilson trials and Chuck thought it was a good idea. I particularly would feel better with efforts

in the hot seat.

maybe we can discuss at

DDA Distribution:

Orig PRS - D/OIS w/o att

1 - DDA Subj w/Orig of Att

1 - DDA Chrono w/o att

1 - HEF Chrono w/o att

15.

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NOTE FOR: Deputy Director for Administration

SUBJECT: Records Validation Officers

Harry:

1. This new regulation on Records Validation Officers (RVO) has been validated without normal coordination; apparently it was proposed by [] and, per the attached routing sheet, the DDCI and Deputies were merely alerted by [] to the concept. It is possible that a more comprehensive review by other senior officials might have raised problems or implications that should have been considered.

25X1

2. Since the regulation is on the books, I offer these unsolicited views only for your information. If you believe they have some merit, put them in your mental computer to draw on in the future, as the need arises.

a. On the surface, [] RVO concept looks great. It reduces the number of Agency witnesses; it could avoid the peril of inconsistent testimony presented by a number of witnesses; and it may facilitate the comprehension of juries as to the Agency's position and testimony.

b. What concerns me, however, is that the RVO, once he pulls together the search information, must become thoroughly knowledgeable on all the systems in question and he must do so at such a level of intensity and understanding as to be able to handle--with confidence, poise, and accuracy--hostile cross-examination. Given the variety of our many systems and the complicated nature of most, this becomes an awesome task for anyone not blessed with a photographic memory.

c. I always thought that the Agency should produce the best witness(es) possible to defend ourselves in actions taken against us or in those the Government initiates. Given the impact that an adverse court action usually has on the Agency, we should settle for no less than the best--not one who is briefed to become a good witness, but one who is a real expert, responsible for the operation of the system, or who lives within the system every day. No one can be a better witness on security information than [] on CI information than [] or on some DO matter than a senior DO official.

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d. As you know, litigation often involves information collected out of many systems throughout the Agency; to expect one or more RVOs to compile and comprehend the substance and intricacies of the many systems in itself is a difficult task; worse, it is likely to create the very problems the RVO concept intends to avoid: disjointed testimony because of uncertainty, inconsistent answers to tough and probing cross-examination, equivocation in answers because some unexpected or unanticipated questions arise during the court proceedings, etc.

e. Would it not be better to have the real experts testify--not those selected to serve as such and who have to be brought up to speed--but do the necessary pre-trial homework to ensure that the several expert witnesses' testimony is properly orchestrated, coordinated, and presented to avoid the pitfalls enumerated in the Cohen memorandum? Drawing on experience and depth of knowledge and not on that created for the individual case, the real expert should be able to field all questions, even those unanticipated. Moreover, the real expert--fully familiar with the systems on which he is testifying--knows by instinct and training how far he can go in testifying and when to stop, as he judges that he is nearing the line that separates disclosable information from classified information. The real expert could be trained and indoctrinated to be a good witness as Cohen contemplates for the RVO.

f. Testifying under oath can be a tense and fearful experience even for a real expert. The concerns are aggravated for someone who is not.


3. What I fear may have happened here, as it has occasionally in the past, is that OGC has proposed a neat, tidy, simple approach without considering fully the implications of the proposal and weighing those against the advantages. Given OGC's belief in the concept and confidence that it is the best way to go, perhaps lawyers should be the individuals selected to serve as an RVO.

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Attachment:

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 and background

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